

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1049 CS Facilities for Professional Sports Franchises
SPONSOR(S): Simmons and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Tourism Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Langston</u>	<u>McDonald</u>
2) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current law requires the Department of Revenue (department) to distribute a specified amount of tax revenues to applicants certified as professional sports franchise facilities by the Office of Tourism, Trade, and Economic Development (OTTED) within the Office of the Governor as meeting specific requirements outlined in s. 288.1162, F.S. An applicant can be a unit of local government or a private entity. Requirements for certification include such things as relationship with and support of a local unit of government, projections of paid attendance, analysis of sales tax revenue generation, demonstration of ability to provide or having financial or other commitments to provide more than one-half of the costs incurred or related to the acquisition, construction, reconstruction, or renovation of such facilities, and, depending upon whether it is a "new" or "retained" professional sports franchise facility, a commitment by the franchise to use the facility for a minimum of 10 or 20 years. The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight.

Funds distributed by the department can only be used for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for such purposes or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

The department distributes \$166,667 monthly to the applicant that has been certified as the "facility for a new or retained professional sports franchise" for no more than 30 years. Currently, there are seven receiving the distribution of \$2 million per year.

The bill increases the current maximum amount of monthly distribution for a facility for a new or retained professional sports franchise that is certified on or after January 1, 2005 to \$275,000, an increase of \$108,333 per month or \$1.3 million per year for up to 30 years. The bill amends the certification law to provide that the applicant must submit a study showing that the sales tax revenues to be generated by the facility will equal or exceed the sales tax distribution to be received by the facility.

The bill takes effect upon becoming law.

The provisions of the bill create a negative fiscal impact on General Revenue of a minimum of (\$1.3) million per year for up to 30 years. See "Fiscal Comments" for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The bill increases the responsibilities of the Governor's Office of Tourism, Trade, and Economic Development for the certification created by the bill. See details below.

Ensure Lower Taxes – The bill requires an increased annual distribution from sales tax revenues for applicants certified as facilities for new or retained professional sports franchises after January 1, 2005. See details below.

B. EFFECT OF PROPOSED CHANGES:

History:

In 1988, with the enactment of Ch. 88-226, LOF, a funding mechanism for state support of the construction of professional sports facilities in Florida was begun. The Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature for approval for funding.

It was not until 1991 that the current structure for certification of facilities for professional sports franchises and for funding of \$2 million through distribution of sales tax revenues became law.¹

The first facility, Joe Robbie Stadium (Marlins), was certified in July 1993 but did not begin receiving a distribution of tax revenues until June 1994. The last new or retained professional sports franchise facility to be certified was the American Airlines Arena (Miami Heat) in February 1998 with the distribution of revenue beginning in March 1998.

Present Situation:

Facilities for New and Retained Professional Franchises - Certification

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) can certify a total of eight applicants as "facilities for new or retained professional sports franchises."² An applicant can be a unit of local government or a private entity; however, local government must be responsible for the facility or own the land on which it sits. A "new professional sports franchise" means a professional sports franchise that is not based in this state prior to April 1, 1987 and a "retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, has continuously remained at that location, and has never been located at a previously certified facility."³

To qualify an applicant for certification as either a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise", OTTED must determine that:

¹ See Ch 91-274, LOF.

² Currently, seven applicants/facilities have been certified: Broward Co. for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and, Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers)..

³ See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition. By definition, the only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

- A unit of local government is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located;
- Franchise has agreed to use the facility for 10 or 20 years depending on type of franchise;
- Governing league approves;
- Projections indicate 300,000 in paid annual attendance;
- Tax revenues generated will equal or exceed \$2 million annually;
- Local government certifies that facility serves a public purpose;
- Applicant is capable of providing more than 50% of costs incurred or related to the improvement and development of the facility; and,
- Applicant has not been previously certified and received funds for that certification.

Funds to be distributed under s. 212.20, F.S., must be used only for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for those purposes.

No facility can be certified more than once. No sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by OTTED before funds were distributed under s. 212.20, F.S., or the previous certification occurred between May 23 and May 25, 1993.⁴ However, any funds distributed pursuant to s. 212.20, F.S., for the second certification shall be offset by the amount distributed to the previous certified facility. Distributions of funds for the second certification shall not be made until all amounts payable for the first certification have been distributed.

Funding – Tax Distribution

Chapter 212, F.S., imposes a state sales and use tax of 6% on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles. Tax collections are deposited by the Department of Revenue (DOR) in the General Revenue Fund of the state and into a variety of trust funds benefiting state agencies and local governments. Section 212.20, F.S., governs the distribution by DOR of tax revenues collected under the provisions of Chapter 212, F.S. Subsection (6) of that section requires DOR to distribute funds to certain certified sports facilities.⁵

Specifically, s. 212.20(6)(d)7.b., F.S., requires DOR to distribute \$166,667 monthly to the applicants certified by OTTED as “facilities for new or retained professional sports franchises” pursuant to s. 288.1162, F.S. Distributions begin 60 days after certification and continue for not more than 30 years.⁶ A certified applicant under the paragraph is not to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6), F.S. A certified applicant, however, is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

⁴ See s. 288.1162, F.S.

⁵ Under this paragraph, DOR provides funding to new and retained professional sports franchise facilities and to retained spring training franchise facilities as certified under s. 288.1162, F.S.; the Professional Golf Hall of Fame facility as certified pursuant to s. 288.1168, and to the International Game Fish Association World Center facility as certified pursuant to s. 288.1169, F.S. Each recipient receives a fixed monthly distribution that is set by statute. The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight and requires that no other sports businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

⁶ DOR provides funding to at least five facilities for retained spring training franchises certified by OTTED. Up to \$41,667 is distributed monthly to each applicant; however, no more than \$208,335 may be distributed in the aggregate to all such facilities.

Changes Proposed by Bill:

The bill increases the current maximum amount of monthly distribution for a facility for a new or retained professional sports franchise that is certified on or after January 1, 2005 to \$275,000, an increase of \$108,333 per month or \$1.3 million per year for up to 30 years. The bill amends s.288.1162(4), F.S., the section of law governing certification requirements for applicants for facilities for new and retained professional sports franchises, to provide that the applicant must submit a study showing that the sales tax revenues to be generated by the facility will equal or exceed the sales tax distribution to be received by the facility.

The bill takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.20(6)(d), F.S., relating to the distribution of proceeds under Chapter 212, F.S., and s. 202.18(1)(b) and (2)(b), F.S.; increasing the amount distributed to new or retained professional sports franchises.

Section 2: Amends s. 288.1162(4)(e), F.S., relating to certification requirements for applicants for “facilities for retained professional sports franchises” and “facilities for professional sports franchises”; conforming certification requirements to reflect distribution of funds received.

Section 3: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Minimum impact on General Revenue: (\$1.3) million per fiscal year for up to 30 years above current estimates if the certification limit remains 8; however, this amount will increase if other applicants for professional sports franchises are permitted. Additional certifications would be (\$3.3) million per year.

See “Fiscal Comments” for detail.

2. Expenditures:

See “Fiscal Comments”.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Minimum impact on local government of \$3.3 million per year for up to 30 years because revenues have never been disbursed for the eighth remaining slot; however, only \$1.3 million is above what is currently set aside for the eighth slot. If additional slots are added, each certification would result in an additional \$3.3 million per year for up to 30 years. See comments under “Fiscal Impact on State Government”.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

What impact the increased funding for the remaining certification will have on the private sector through the use of the funds is not able to be determined.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not met and estimated the fiscal impact of the provisions of the bill. It is not known when an applicant will be certified as a facility for a new or retained professional sports franchise. Since there is one slot currently available for a new or retained professional sports franchise facility, it could be assumed that this would be an additional \$1.3 million reduction in General Revenue over the next 30 years. The bill, however, refers to any franchise facility that is certified after January 1, 2005. If additional slots are added, the costs for those additional slots will likewise increase to a total General Revenue reduction per slot of \$3.3 million per year for up to 30 years.

The additional costs, if any, for administration of the provisions of the bill by the Department of Revenue and OTTED are not known at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2005, the Tourism Committee passed HB 1049 with a committee substitute. The committee substitute differs from the original bill in the following ways:

- References to new or professional sports franchises being certified are corrected to state that applicants are certified as "facilities for a new or retained professional sports franchise."
- The requirement to provide each previously certified franchise with \$1.3 million per year for additional renovations and improvement pursuant to s. 288.1162, F.S., was deleted.
- The bill amends s.288.1162(4), F.S., the section of law governing certification requirements for applicants for facilities for new and retained professional sports franchises, to provide that the applicant must submit a study showing that the sales tax revenues to be generated by the facility will equal or exceed the sales tax distribution to be received by the facility.
- The title is changed to reflect that the bill relates to facilities for professional sports franchises.